



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

16

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/722,151	11/25/2003	Robert O. Braun JR.	66430	7024
27148	7590	09/23/2004	EXAMINER	
POL SINELLI SHALTON WELTE SUELTHAUS P.C.			SMITH, RICHARD A	
700 W. 47TH STREET			ART UNIT	
SUITE 1000			PAPER NUMBER	
KANSAS CITY, MO 64112-1802			2859	

DATE MAILED: 09/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/722,151

Applicant(s)

BRAUN, ROBERT O.

Examiner

R. Alexander Smith

Art Unit

2859

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 07 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-29 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 20031125.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 3 and 18 are objected to because of the following informalities:

Claim 3 is objected to under 35 CFR §1.75(b) since claim 3 is essentially a duplicate claim of claim 13.

Claim 18: "the slot" lacks antecedent basis.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-7, 9, 12, 13, 15-17, 19, 21 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. 2,568,575 to Wickman.

Wickman discloses an apparatus having a body (9) having at least one edge (part of 9) configured for temporarily accommodating instrumentation for at least one of marking, cutting or scoring; a head (10) in communication with the body, the head including at least one lateral

Art Unit: 2859

portion extending beyond the body; and at least two rollers (12) along the at least one lateral portion, the rollers oriented substantially coplanar to each other to define a first plane, the body is oriented substantially perpendicular to the first plane defined by the rollers, the body is attached to the head, at least two rollers include wheels (12), the at least one lateral portion includes two lateral portions of the head extending beyond the body (to each side of the body as shown in figure 1, in otherwords, each  $\frac{1}{2}$  of the head having a wheel 12 is a lateral portion), the two lateral portions are oppositely disposed with respect to each other, wherein the at least two rollers each extend beyond the head, the at least one edge configured for temporarily accommodating instrumentation for at least one of marking, cutting or scoring, includes one edge.

***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 1,643,695 to Bunker in view of U.S. 2,568,575 to Wickman.

Bunker discloses an apparatus for operating on at least substantially planar materials comprising a body (10) having at least one edge configured for temporarily accommodating

Art Unit: 2859

instrumentation for at least one of marking, cutting or scoring; a head (1) in communication with the body, the head including at least one lateral portion extending beyond the body; and a plate (2) that defines a first plane, the body is oriented substantially perpendicular to said first plane, the body is attached to the head, the at least one lateral portion includes two lateral portions of the head extending beyond the body (each half to each side of 10 as defined by the line 24), the two lateral portions are oppositely disposed with respect to each other, the body includes a plurality of notches cut into the at least one edge of the body (16-23), the body includes indicia corresponding to each of the notches cut into the at least one edge, the indicia are proximate to the at least one edge, the head includes a slot (at 13 and 13a) for receiving the body, the slot proximate to the at least one lateral portion, the slot is intermediate the two lateral portions,

Bunger does not disclose said head having at least two rollers along the at least one lateral portion, the rollers oriented substantially coplanar to each other to define said first plane, the at least two rollers include wheels, the at least two rollers each extend beyond the head and the method steps of claims 25-27.

Wickman discloses an apparatus having a head with having at least two rollers (12) along the at least one lateral portion, the rollers oriented substantially coplanar to each other to define said first plane, the at least two rollers include wheels, the at least two rollers each extend beyond the head. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the head with the sliding plate, taught by Bunger, with the wheel type rollers to define the first plane, as taught by Wickman, in order to allow the apparatus to be easily moved while measuring, laying out and marking the parts, lines and measurements.

Art Unit: 2859

With respect to the method steps of claim 25-27, these method steps would be met during the normal operation of the apparatus disclosed by Bunger as modified by Wickman.

6. Claims 28 and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bunger and Wickman as applied to claims 1-27 above, and further in view of U.S. 6,289,594 to Wrobbel.

Bunger and Wickman together teach all that is claimed as discussed in the above rejections of claims 1-27 except for the method steps of claims 28 and 29 wherein the instrument is a scoring tool and a cutting tool respectively.

Wrobbel discloses an apparatus and teaches that the device can be used not only for marking but for scoring, scribing, and cutting. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the method, taught by Bunger and Wickman, by adding the method steps of using a scoring tool and a cutting tool, as suggested by Wrobbel, in order to increase the versatility of the use of the apparatus by allowing the device to apply different types of markings depending on the composition and hardness of the material or to save time by directly cutting or by scoring and breaking rather than marking first before cutting or scoring.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The prior art cited in PTO-892 and not mentioned above disclose related apparatus and methods.

Art Unit: 2859

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to R. Alexander Smith whose telephone number is 571-272-2251.

The examiner can normally be reached on Monday through Friday from 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diego F. Gutierrez can be reached on 571-272-2245. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read 'R. Alexander Smith', with a long horizontal flourish extending to the right.

R. Alexander Smith  
Examiner  
Technology Center 2800

RAS  
September 20, 2004